



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

09/964,852

09/28/2001

Pekka Talmola

004770.00024

2368

22907

7590

07/21/2008

BANNER & WITCOFF, LTD.

1100 13th STREET, N.W.

SUITE 1200

WASHINGTON, DC 20005-4051

EXAMINER

BROWN, RUEBEN M

ART UNIT

PAPER NUMBER

2623

MAIL DATE

DELIVERY MODE

07/21/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/964,852

Applicant(s)

TALMOLA ET AL.

Examiner

REUBEN M. BROWN

Art Unit

2623

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3-18, 20-33, 36-39 & 41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-18, 20-33, 36-39 & 41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C)
- Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 4/23/2008 have been fully considered but they are not persuasive. In applicant's previous Remarks filed 11/19/2007 and in the presently filed Remarks, applicant continues to argue, "there would be no reason to modify Hylton to re-multiplex at least part of a data stream with first transmission with data stored locally at a gateway...because the set top terminal 100 could not identify an intended signal...there would be no advantage or benefit gained in Hylton re-multiplexing at least part of a data stream of the first transmissions with data stored locally at a gateway...To do so would unnecessarily add to the complexity of the operation in Hylton...because Hylton would subsequently need to again de-multiplex the signal to identify a particular signal for reception by the set top terminal 100".

First of all, as pointed out in the Office Action mailed 3/19/2008, the claims recite, '*re-multiplex at least a part of the data stream of the first transmission with data stored locally...*'. Thus, it is the '*first transmissions*' that have been '*de-multiplexed*', which are then '*re-multiplexed*'. This part of the claim is clearly met by Hylton, at col. 4, lines 55-67; col. 6, lines 19-44; col. 11, lines 57-65; col. 29, lines 47-67 thru col. 30, line 1-54. Fig. 7 of Hylton shows that video program are de-multiplexed by demultiplexor 13, and then multiplexed along with other programs by the multiplexor 15.

Secondly, Hylton is clearly directed to supplying subscribers with a wide variety of programs from a variety of different programming sources. There is a clear motivation to modify Hylton so that at least one of the varieties of different programming sources available to the subscriber, would be programs stored locally by a local server, which has the desirable advantage or improvement of giving the subscriber more choices. Therefore examiner respectfully disagrees with applicant's assertion that "there would be no reason to modify Hylton...to re-multiplex at least part of the data stream...with data stored locally". One of ordinary skill in the art would have readily recognized the advantage of providing a subscriber with more choices, than would have otherwise been available.

As for the specifics of applicant's argument, "to do so would unnecessarily add to the complexity of Hylton... because Hylton would subsequently need to again de-multiplex the signal to identify a particular signal for reception by the set top terminal 100". The video programming that is multiplexed by the multiplexor 15 (which reads on the claimed, '*re-multiplexing*') is in MPEG form, see col. 14, lines 55-67 & col. 30. Thus, since the programming stored in Knudson is also in MPEG format, see Para [0072], the operation of Knudson within the environment of Hylton, would merely require adding another MPEG video to the multiplexor 15 and multiplexing it, along with the other MPEG video already discussed that come from the MPEG demux units 13.

Regarding applicant's request for references to back-up the Official Notice, taken for the claims 6-7 & 38. Concerning claims 6-7, Garneau (US 5,675,647) provides a teaching of the well-known technology of scrambling video content and requiring a subscriber to input a proper password in order to de-scramble the instant video content, see col. 4 & col. 10. Concerning claim 38, Official Notice was taken of an alarm system in a local cable system. Support for this statement is found in Edson (US PG-PUB 2003/0101459) which teaches one or more devices 34 that operate as an alarm system in a local in-home system, similar to Hylton & Knudson, see Para [0008, 0018, 0039, 0056]. Edson also teaches that the system may operate as a wireless, in-home system, see Para [0018, 0033, 0056].

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3-4, 10, 15-18, 20, 24, 27, 36-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hylton, (U.S. Pat # 5,708,961), in view of Knudson, (US PG-PUB 2005/0204387).

Considering claims 1 & 10, the claimed method of distributing a data stream locally, comprising;

'receiving at a gateway first transmission from a digital broadcast network by means of a gateway terminal' is met by the shared processing system 10, in Hylton, Fig. 1, which receives video programming from a Digital Broadband Network 5.

'processing' and 're-transmitting the first transmission via wireless digitally modulated local broadband' is met by the discussion in Hylton that video programming is received from the Digital Broadband Network 5 and retransmitted within the user home wireless network, via a modulator 17, see col. 4, lines 55-67; col. 6, lines 19-44 & Fig. 1.

'receiving the wireless digitally modulated broadband second transmission by at least one multimedia terminal', is met by the operation of the set top terminal 100, col. 7, lines 35-67 thru col. 8, lines 1-45.

The amended claimed feature wherein the processing, *'includes de-multiplexing a data stream of each of the transmission'*, Hylton discloses at least two embodiments of the shared processing system 10 that shows that the program selectors 13 are comprised of MPEG de-multiplexers or ATM de-multiplexers (Fig. 7; Fig. 9; col. 29, lines 60-67 thru col. 30, lines 1-29; col. 36, lines 55-60).

Considering claim 3, the secondary storage device of Knudson, meets the claimed subject matter.

Considering claims 4 & 37, the claimed subject matter is met by the combination of Hylton & Knudson.

Considering claim 15, the modulator 17 in Hylton, at least uses QAM, col. 6, lines 18-30.

Considering claim 16, Hylton teaches that two-way signaling uses the 902-928 MHz frequency band, col. 8, lines 18-34.

Considering claim 17, the claimed feature is broad enough to read on the discussion in Hylton that video programming and signaling uses frequency hopping techniques.

Considering claim 18, the claimed apparatus comprises elements that correspond with subject matter mentioned above in the rejection of claims 1 & 10, and is likewise treated. As for the additionally claimed '*memory*', the controller 19 of Hylton meets the claim, see col. 8, lines 45-67.

Considering claim 20, the claimed limitation is met by the combination of Hylton & Knudson, as discussed in claim 1.

Considering claim 24, the claimed subject matter reads on the disclosure of Knudson of receiving and storing programming locally, Para [0070-0073].

Considering claim 27, the claimed wireless link between the apparatus and the terminal, reads on the path utilized by the modulator 17 between the shared processing system 10 and the STT 100.

Considering claim 36, Hylton discloses technology supporting two-way wireless communication.

Considering claim 38, Hylton does not discuss any of the devices operating as an alarm system. Official Notice is taken that at the time the invention was made, it was known in the art to provide an alarm system in a local cable network. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify the combination of Hylton & Knudson with an alarm system, at least for the desirable benefit of proving additional security for the user.

Considering claim 39, Hylton & Knudson are directed to transmission of video programming.

4. Claims 5-9, 13-14, 22-23, 29, 31 & 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hylton & Knudson, further in view of Candelore, (US PG-PUB 2002/0188567).

Considering claims 5-9, 13-14 & 22-23, Hylton does not discuss any aspects of scrambling video data. Nevertheless, Candelore discloses that scrambling is a technique used to restrict video programming to only authorized viewers. Regarding claim 6, Candelore goes on to teach that a video program may be broadcast through the air in scrambled form, then descrambled by the receiver 110 (descrambler unit 340) in order to be shown on display 160, and also re-scrambled by Re-Scrambler Unit 350, in order for storage in the Hard Disk Recording Unit 150, see Para [0041-0046]. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Hylton with the feature of re-scrambling a received video program, for the benefit of allowing the content provider greater control over its reproduction, as taught by Candelore, see Para [0009-0012], [0048].

As for the additionally claimed feature of a password, Candelore teaches that a viewer needs to fulfill certain requirements in order to view scrambled content, such as timely purchase via various pay for view scenarios, Para [0059], but does not discuss the use of a password to additionally control access. Official Notice is taken that at the time the invention was made, the use of password protection to restrict accounts to authorized account holders was old in the art. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify the combination of Hylton & Candelore to use password protection, for the known purpose of preventing unauthorized users from access the subscriber's account.

Considering claim 29, the claimed apparatus comprises elements that correspond with subject matter mentioned above in the rejection of claims 1 & 5-6, and is likewise analyzed.

Considering claims 31 & 33, the claimed feature is met by the wireless link provided by the modulator 17 of Hylton.

5. Claims 11-12, 21 & 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hylton & Knudson, in view of Janik, (U.S. Pat# 7,107,605).

Considering claims 11-12, the claimed second transmission in a frequency allocated for free use, such as an ISM frequency, Hylton discloses that the modulator 17 may transmit the programming to terminals using channels that are the same or similar to a broadcast TV channel, col. 6, lines 18-35. However, Hylton does teach that the signaling messages between the set top terminals and the shared processing system 10 are transmitted in the one of the ISM bands, (902-928 MHz), see col. 8, lines 18-34; col. 19, lines 24-56 & col. 20, lines 1-30.

Hylton though, does not specifically disclose that the video data may be transmitted in one of the ISM bands. Nevertheless Janik, which is in the same field of endeavor, teaches a wireless home network alternatively operating in an ISM band (2.4 GHz), col. 1, lines 45-67 & col. 5, lines 8-31. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Hylton with the technology of alternatively transmitting the video

programming in the ISM band, as disclosed by Janik at least for the known advantage of more easily avoiding interference in the other bands.

Considering claims 21, the claimed elements of a gateway terminal for receiving and transmitting data stream that correspond with the features presented in claim 1, are likewise treated. The additionally claimed feature of, 'the second transmission by a broadband digital transmission at a frequency allocated to free use', corresponds with subject matter mentioned above in the rejection of claims 11-12, and is likewise treated.

Considering claims 28, the combination of Hylton & Janik (col. 5, lines 11-30; col. 6, lines 1-67) reads on the claimed subject matter.

6. Claims 25-26, 30 & 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hylton, Knudson & Janik and further in view of Candelore.

Considering claim 25, the MPEG converter in Hylton is included within the set top terminal, col. 14, lines 55-67 thru col. 15, lines 1-30. However, as discussed in the rejection of claims 5-6, Candelore discloses descrambling, then re-scrambling a video program. The claimed MPEG A/D converter corresponds with the operation of the digital VCR 140 and hard disk recording unit 150 which is used to record analog or digital video, into digital format, Para [0030-0031].

Considering claim 26, Hylton discloses QAM modulation.

Considering claims 30 & 32, Hylton (Fig. 7; col. 29 & col. 30) & Janik (col. 1, lines 45-67 & col. 5, lines 8-31) disclose all subject matter.

7. Claim 41 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hylton & Knudson, further in view of Edson, (US PG-PUB 2003/0101459).

Considering claim 41, the previous discussion in claim 1 of Hylton, in view of Knudson reads on the claimed subject matter. However, as for the specifics of the one or more computer storage media storing computer readable instructions, that when executed by a processor causes the steps recited in claim 1 to be executed, the controller 19 of Hylton is the device that controls the shared processing system 10, see col. 8, lines 35-67; col. 9, lines 45-67 & col. 19, lines 51-67. However, even though Hylton teaches that the controller provides instruction to the various devices, the reference does not explicitly show the controller 19 supplying these commands or instructions to the various devices from a storage medium. Nevertheless, Edson is in the same field of endeavor and discloses that the gateway 13 includes CPU 105 with associated hard disk 107 for storing programming 109 & data 111. Similar to the controller 19 of Hylton, the CPU 105 of Edson controls all of the operations of the gateway. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Hylton with the feature of

computer readable medium for storing instructions, to be accessed by the processor, as taught by Edson, at least for the benefit of being able to more efficiently operate the system, since the instructions would be retrieved from memory, when needed.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Art Unit: 2623

Any response to this action should be mailed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

or faxed to:

(571) 273-8300, (for formal communications intended for entry)

Or:

(571) 273-7290 (for informal or draft communications, please label
"PROPOSED" or "DRAFT")

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reuben M. Brown whose telephone number is (571) 272-7290. The examiner can normally be reached on M-F (9:00-6:00), First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on (571) 272-7331. The fax phone numbers for the organization where this application or proceeding is assigned is (571) 273-8300 for regular communications and After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Annan Q Shang/
Primary Examiner, Art Unit 2623

Reuben M. Brown